IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Bail Appl..No. 5834 of 2007()

CRMP.3247/2007 of II ADDL. DISTRICT COURT, PALAKKAD
CRIME NO.168/07 OF MANKARA POLICE STATION IN PALAKKAD DIST.

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PETITIONER :

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1. K.N.SUNDARAN,S/O.LATE K.V.NEELAN,
   AGED 50, KUNDUPARAMBIL HOUSE, MANKURUSSI,
   MANKARA,PALAKKAD DISTRICT.

2. K.VIJAYAKUMARI, W/O.K.N.SUNDARAN,
   AGED 40, ---DO----.

3. K.N.RADHAKRISHNAN, S/O.LATE K.V.NEELAN,
   AGED 43 -DO-.

4. C.RUGMANI, W/O.K.N.RADHAKRISHNAN,
   AGED 40, -DO-.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, MANKARA POLICE
STATION, PALAKKAD DISTRICT.

BY P.P. SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5834 OF 2007

Dated this the 27th day of September, 2007

ORDER

Application for anticipatory bail. A young woman with an infant child, whose husband had expired within a short period of time after the marriage, had committed suicide. Petitioners 1 and 3 are the brothers of the deceased husband. Petitioners 2 and 4 are the wives of petitioners 1 and 3. The widow of the deceased was residing in her matrimonial home even after the death of her husband. The marriage took place in February, 2005. The husband expired on 10/12/06. The widow committed suicide on 21/8/07. Initially, it was registered as a case of unnatural death. Later, in the course of investigation, the brother of the deceased widow raised a complaint that matrimonial cruelty of the relatives of the deceased husband had prompted the deceased widow to

commit suicide. Allegations are now being raised against the petitioners under Secs.498A and 306 of the IPC.

2. The gist of the allegations against the petitioners is that they meted out cruelty of the culpable variety against the widow of the deceased brother. What exactly is the nature of the alleged cruelty? It is said that certain amounts have been received from the Insurance Company consequent to the death of the husband. There was some dispute regarding sharing of that money. It is asserted by the learned counsel for the petitioners that the entire amount was deposited in Fixed Deposit in the name of the minor infant child of the deceased. The other allegation is that a Television which was purchased by the deceased husband was removed by the widow from the common room to one room under the same roof where she was residing after the death of her husband. This had led to some disagreement and dispute. The allegations of matrimonial cruelty are founded on these factual allegations.

3. The learned counsel for the petitioners submits that the petitioners had willingly accommodated the widow of the brother in the matrimonial home. There was absolutely no question of any cruelty emanating from the petitioners towards the deceased. The deceased was deeply upset over her misfortune

in life. The young widow had committed suicide unable to deal with the misfortune that had befallen her. It would be harsh, cruel and insensitive to assume that the widow had committed suicide because of any cruelty on the part of the petitioners. At any rate, the petitioners do not deserve to endure the trauma of arrest and incarceration. They are willing to co-operate with the Investigator. Subject to appropriate conditions, the petitioners may be granted anticipatory bail, it is prayed.

4. The learned Public Prosecutor does not oppose the application. In the nature of the controversy, the learned Public Prosecutor was requested to place the Case Diary before me for my perusal. I have perused the Case Diary. I need only mention that I am persuaded to agree that this is a fit case where appropriate directions, subject to appropriate conditions, can be issued under Sec.438 of the Cr.P.C. in favour of the petitioners.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 4/10/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 5/10/07 and 6/10/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 4/10/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 4/10/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge